

1 was in fact shipped by air. Number three: "Much of that  
2 cargo was apparently the type suitable for transportation by  
3 barge." So those would be the three conclusions.

4 Q. How did you reach that last conclusion?

5 A. The last conclusion was by looking at manifests of  
6 Samson in prior lawsuits -- in prior manifests as to what  
7 kinds of goods were carried on the barges. And then by  
8 looking at the three documents that are analyzed here as to  
9 the type of cargo that was in fact carried by the planes.

10 Q. What's the relevance to your calculation of  
11 economic damages allegedly suffered by Samson that the  
12 planes for which there's a record that they called on Adak  
13 during this period could have carried cargo of 20,600  
14 measurement tons?

15 A. What's the relevance to my calculation of damages?

16 Q. Yes.

17 A. The -- my calculation of damages as we went  
18 through is a proxy for the damages because we were not able  
19 to do it in the direct method, which had been described  
20 previously. We have done a return on cost method. The --  
21 if you will, the reasonableness of the method only shows  
22 that the -- carrying more than 26 -- excuse me, more than  
23 20,600 shows that in fact, if we were able to do the direct  
24 method, it would -- there is more than sufficient capacity  
25 to plausibly support that method. We were not able to do

1 Q. Do you understand what kind of an airplane a C-130  
2 is?

3 A. Yes, I believe so.

4 Q. What -- what is your understanding?

5 A. It's a large jet cargo plane. It's a large cargo  
6 plane.

7 Q. Do you know what its mission is?

8 A. The mission of a C-130? I imagine it's to haul  
9 freight. I don't know the specific mission but I imagine  
10 the mission for the Navy may be different than the mission  
11 for the Air Force or for the mission for others. I don't  
12 know.

13 Q. Do you know what the C-141 is?

14 A. Yes.

15 Q. What is it?

16 A. It's a large jet cargo plane also capable of  
17 carrying passengers.

18 Q. Do you know what the mission of the C-141 was at  
19 Adak?

20 A. No.

21 Q. Can you explain why the records you reviewed and  
22 as are reflected on these tables show more cargo on those  
23 two planes going into Adak than were coming out of Adak?

24 A. Well, first of all as I've said I'm not sure these  
25 records are complete. So I think any conclusions may be --

1 cargo being carried on the one, two, three, four, five types  
2 of planes during that two-year period that I just asked you  
3 about, do you?

4 A. I have information that a flight landed and took  
5 off. I don't have information regarding how much freight  
6 was on that plane.

7 Q. Well, in fact you have -- the only information you  
8 have is that there was zero; isn't that right?

9 A. No. Some of those were left blank. As you see on  
10 the field, the C-9, the C-21, the DC-8, the C-1 -- the  
11 HC-130N, and C-130E were unknown, they were blank.

12 Q. Do you have any documents that indicate that even  
13 one pound of cargo came off of Adak on any one of those five  
14 types of airplanes for that two-year period?

15 A. I don't have any information except I think it  
16 would be unrealistic to think that those flights would  
17 continue in and out with totally empty aircraft. But I  
18 don't have any information. That's why they are not  
19 included there. They're included in the chart on the right  
20 that talks about the capacity of the planes for the flights  
21 which there is no information on.

22 Q. Do you understand that Adak was a refueling depot?

23 A. I think Adak was a number of things but I think  
24 they had refueling, correct.

25 Q. Are you a pilot?

1 A. I am not a certified pilot, no.

2 Q. Have you ever served in the United States Air  
3 Force?

4 A. I have served in the U.S. Army as we talked  
5 before, not in the--

6 Q. Have you ever served in the United States Air  
7 Force?

8 A. No.

9 Q. That's a yes or not. Have you ever served in the  
10 United States Navy in a pilot capacity?

11 A. No.

12 Q. Did your service in the army have anything to do  
13 with the carriage of cargo by air?

14 A. No.

15 Q. Have you ever worked for Air Mobility Command?

16 A. No.

17 Q. If we could look now at your page six table, that  
18 is again on the lower of the two that's on the left next to  
19 the plane B737. And we see that you've recorded a freight  
20 capacity of metric tons of 9,537, and that under the column  
21 freight actually carried 3,139.1. What does that reflect  
22 about actual utilization on the B737 for flights into Adak?

23 A. That would indicate just that, that they have a  
24 capacity of 9,537 and 3,139 was actually carried.

25 Q. So you would agree with me that it was -- they

1 included. If the destination on those flights was outside  
2 of the continental U.S. for example, as I said Guam or  
3 Okinawa, those in fact were excluded from our calculations.

4 Q. But you don't know what happened to anything once  
5 it got to Anchorage, do you?

6 A. I don't know what happened once it got to  
7 Anchorage or when they got to McCord Air Force Base.

8 Q. What was your understanding of the route -- did it  
9 go for the 737s? Did they go directly from Anchorage to  
10 Adak and back to Anchorage?

11 A. There -- I don't know if they went out to Shemya  
12 for example or I think that was shut down and very small but  
13 I don't know. I believe they went from Anchorage to Adak  
14 and returned, but I don't know.

15 MS. FRANKEN: Now, I'm going to comment on the  
16 record before I mark this that I don't believe that counsel  
17 has a right to provide another report or to supplement the  
18 opinions of its expert. That this is beyond the many  
19 extensions that were granted with regard to providing expert  
20 testimony and that certainly my client is prejudiced in not  
21 being able to respond and that we would move to exclude all  
22 of this testimony at the appropriate time. Nevertheless,  
23 for purposes of identification I will ask the court reporter  
24 to mark this late-produced report which bears a date of  
25 November the 9th of 2007 as next in order. And I believe

1 that we are at number 130. I don't know if anyone wants to  
2 correct me but I guess not so we're going to mark it as  
3 number 130.

4 (Whereupon, Mr. Johnson's Analysis Relating to Dr.  
5 Nadel's Report was marked Exhibit 130 for identification.)

6 MR. ROYCE: And I would like to make a brief  
7 statement after the court reporter has marked.

8 This is Bill Royce, counsel for Samson Tug. The  
9 analysis which has been marked as 130 came about in response  
10 to a new issue identified in Dr. Nadel's report which has  
11 been explained or described by the witness in this morning's  
12 deposition. The analysis in Dr. Nadel's report was  
13 essentially that it was improbable or highly unlikely that  
14 air cargo to or from Adak could have reached the amount  
15 implied in the damage analysis of Mr. Johnson. In response  
16 to that Mr. Johnson has done some work -- supplemental work  
17 which is reflected in Exhibit 130. The topic of this  
18 additional work was communicated to counsel for the  
19 government in various telephone conversations and e-mails  
20 and specifically including an e-mail of November 6th of 2007  
21 sent on behalf of Bob Borax in which we discussed this  
22 analysis and provided options to the government as to  
23 whether to go forward with the deposition or seek to  
24 continue it to a later date. It's -- it's our view that  
25 this additional work is something that would come in at

1 in order to do this additional analysis?

2 A. I believe that Mr. Morris talked to George Baggan  
3 and Corey Baggan.

4 Q. Mr. Morris was previously identified as being the  
5 person who did much of the leg work on your initial report  
6 and my efforts to depose him were rejected by counsel.  
7 Exactly what was Mr. Morris's role with regard to preparing  
8 this additional analysis?

9 A. Mr. Morris worked with me to do this analysis.

10 Q. And what does that mean?

11 A. That means that we would meet and discuss what  
12 needed to be done and in some cases he constructed models  
13 which we reviewed, analyzed, and modified.

14 Q. Does Mr. Morris have some background with flight  
15 data different than your own, which apparently is--

16 A. Mr. Morris is--

17 Q. -- nonexistent.

18 A. I'm sorry?

19 Q. I'm done.

20 A. Mr. Morris is a financial analysis and has a CPA  
21 and a CFA and other designations and works regularly with  
22 financial records and reviewed the records.

23 Q. Did you consult with any experts on air cargo?

24 A. No. We also -- we used research on the Internet  
25 regarding these specific planes. And we also used and



1 confirmed and used information reported by Dr. Nadel in his  
2 report.

3 Q. When you say you did research on the Internet on  
4 planes, is that information contained in the box of  
5 documents you've labeled box 3?

6 A. It is in box 1 or 2. That information was also  
7 available for the first report -- first work and it was  
8 available at my deposition so it's in the earlier box.

9 Q. Did you have occasion to actually do any  
10 investigation into the actual configuration of the actual  
11 airplanes that were calling on Adak during the relevant  
12 period?

13 A. I don't have that information.

14 Q. Did you make any effort to obtain that  
15 information?

16 A. The only way to obtain that information would be  
17 from government records and I do not have any government  
18 records that have been provided that have that information  
19 on there.

20 Q. You stated that you believed that Alaska Airlines,  
21 not a government entity, operated the 737s; is that right?

22 A. That's correct.

23 Q. Did you contact Alaska Airlines and make any  
24 inquiries of Alaska Airlines about the configuration of its  
25 planes?



1 A. The configuration of its planes on each and every  
2 one of those flights during that period of time, ten to  
3 twelve years ago, on Adak, no.

4 Q. Are these spreadsheets and other calculations to  
5 be found in box 3 that went into your analysis, Exhibit 130?

6 A. Yes.

7 Q. At your first deposition other than Mr. Baggan's  
8 testimony as I recall you did not review any of the  
9 depositions. Have you done so since that time?

10 A. I'm not sure your statement was correct. At -- I  
11 don't recall my testimony but we have Mr. -- we have  
12 excerpts and things from Mr. Halko, we have other deposition  
13 files that were in our files originally. So I'm not sure  
14 specifically what you're referring to.

15 Q. Have you ever read Mr. Peterson's deposition?

16 A. I don't believe I have Mr. Peterson's deposition  
17 in the box. I would be happy to look. I have not read it.  
18 I may have read the extracts from it if it's in there but I  
19 don't recall.

20 Q. Have you ever read Mr. -- you yourself ever read  
21 Mr. Clark's deposition?

22 A. No.

23 Q. Are you an expert on the carriage of cargo by air?

24 A. No.

25 Q. In -- in your first deposition you testified that

1 source of that information? Because if you use 12.15 you do  
2 not come up with the figure that you show on this table of  
3 9,741; do you?

4 MR. ROYCE: Objection--

5 Q. Do you?

6 MR. ROYCE: Objection; mischaracterization of  
7 prior testimony.

8 A. The number on my report on page four for capacity  
9 is based on 12.75. If you multiply those numbers they come  
10 out as -- as stated. I have a note in my copy here that in  
11 the file there's research regarding plane capacity and  
12 Dr. Nadel's calculations are the source of those --  
13 confirmation of those numbers. And -- and that I would have  
14 to go back through those to determine -- or maybe the  
15 worksheets on the computer to determine the basis for 12.75  
16 and why that was different. I believe it was because of  
17 conversations or research done by Mr. Morris.

18 Q. Is 12.75 based on anything you've found in either  
19 Dr. Nadel's report or his testimony?

20 A. I -- I don't see it on page 40 which is the  
21 reference that I have here. I don't recall as I sit here  
22 what he utilized for the 737s or if he even addressed the  
23 737s. I'd have to go back to my documents and his testimony  
24 to see if he addressed those.

25 Q. Well, sitting here today do you know why you used

1 12.75 measurement tons per pallet when you were calculating  
2 the freight capacity of the 737 but used 12.15 measurement  
3 tons per palette when you were calculating the freight  
4 capacity of a 130 or a 141?

5 A. As I sit here today I do -- I can't tell you what  
6 that is without going and digging back through the  
7 documents. So I don't know as I sit here, no.

8 Q. Is this something Mr. Morris came up with again?

9 A. This is work that Mr. Morris did and I've reviewed  
10 it. But I would have to go back to see the derivation  
11 of that number. All I have is the citation and notation  
12 that's in front of me here.

13 Q. Is it possible that somebody just transposed a  
14 number and used 12.75 rather than 12.15 by mistake?

15 A. I -- I can't discuss that possibility but the  
16 number is clearly 12.75 handwritten here and then 12.75 used  
17 in the calculations.

18 Q. Handwritten where?

19 A. On the sheet that I have in front of me that helps  
20 me understand exactly where that number came from.

21 Q. Do I have those handwritten notes?

22 A. No, it's in the documents that you will copy when  
23 I get done.

24 Q. So it's in box 3, is that right?

25 A. It's in the post-deposition box 3, correct.

1 slightly more capacity.

2 Q. So you're assuming that this wasn't military  
3 cargo, that this was -- would have been commercial cargo  
4 carried on the 737?

5 A. The question, Counselor, is what is the capacity  
6 of the 737, not in pallets, in cubic feet and in measurement  
7 tons. You might put it in there loose, you might put it in  
8 there on a small palette or big palette or any size other  
9 palette. What is the capacity in measurement tons? And the  
10 capacity measured in pallets is not military pallets, it's  
11 measured in these other pallets. So you could conceivably  
12 put -- maybe you could stack the military pallets a little  
13 higher on a 737 because there was more room. But the  
14 capacity is the capacity. You're asking me -- or some of  
15 your questions related to how did they stack them or what  
16 did they do or did the military do it any differently.  
17 We're not measuring -- we don't know how they loaded it. We  
18 don't know how much freight was on all these flights. We --  
19 we're only measuring the capacity as to how much they could  
20 have carried.

21 Q. Well, you don't actually know the specifics on any  
22 of these flights because you have no idea how they were  
23 configured specifically, do you?

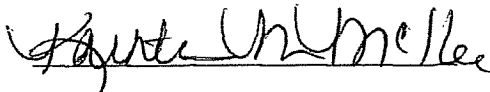
24 A. I do not. We've made assumptions.

25 Q. And the military uses a standard palette size

## CERTIFICATE

I, Kathleen M. McKee, do hereby certify that pursuant to the Rules of Civil Procedure, the witness named herein appeared before me at the time and place set forth in the caption herein; that at the said time and place, I reported in stenotype all testimony adduced and other oral proceedings had in the foregoing matter; and that the foregoing transcript pages constitute a full, true and correct record of such testimony adduced and oral proceeding had and of the whole thereof.

IN WITNESS HEREOF, I have hereunto set my hand this 27th day of November, 2007.



Kathleen M. McKee

December 09, 2008

Commission Expiration

## CORRECTION SHEET

DEPOSITION OF: GEORGE JOHNSON

DEPOSITION DATE: NOVEMBER 16, 2007

REGARDING: SAMSON TUG AND BARGE VS. UNITED STATES OF AMERICA

NRC FILE/COURT REPORTER: 4950-17/ KATHLEEN MCKEE

I have read the above-mentioned transcript and listed below the following corrections or additions:

PAGE#	LINE	CORRECTION
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34	20	"analysis" s/b "analyst"
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*George Johnson*  
11/21/07

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53